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**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov/council](http://www.mauicounty.gov/council)

November 9, 2011

RECEIVED  
2011 NOV 10 AM 8:35  
OFFICE OF THE  
COUNTY CLERK

The Honorable Danny A. Mateo, Chair  
and Members of the Council  
County of Maui  
Wailuku, Hawaii 96793

Dear Chair Mateo and Members:

**SUBJECT: WATER CONSERVATION PLAN (PAF 10-211)**

Please find attached a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.03, MAUI COUNTY CODE, TO ESTABLISH A WATER CONSERVATION PLAN, AND AMENDING ARTICLE 1, TITLE 14, MAUI COUNTY CODE, RELATING TO WATER SOURCE DEVELOPMENT AGREEMENTS". The purpose of the proposed bill is to establish a water conservation plan and amend Title 14 to delete the section relating to water source development agreements with private entities and add it as a new chapter in the Maui County Code.

May I request that the attached proposed bill be referred to the appropriate standing committee for discussion and action.

Thank you for your consideration. Should you have any questions or require clarification, please contact me.

Sincerely,

Handwritten signature of Michael P. Victorino in black ink.

MICHAEL P. VICTORINO  
Council Member

paf:kcw:10-211b

Attachment

**COUNTY COMMUNICATION NO. 11-307**

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2011)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.03,  
MAUI COUNTY CODE, TO ESTABLISH A WATER CONSERVATION  
PLAN, AND AMENDING ARTICLE 1, TITLE 14, MAUI COUNTY CODE,  
RELATING TO WATER SOURCE DEVELOPMENT AGREEMENTS

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Section 14.01.040, Maui County Code is amended by adding new definitions to be appropriately inserted and to read as follows:

“Available reclaimed water service” means the existence of a reclaimed water distribution main contiguous with or within one hundred feet of any consumer's property line.

“Non-potable water” means water that has not been certified by the department of health as suitable for cooking or drinking purposes.

“Reclaimed water” means wastewater as defined in Section 20.30.030 of this code.”

SECTION 2. Chapter 14.03, Maui County Code, is amended to read as follows:

**“Chapter 14.03**

**WATER CONSERVATION PLAN**

Sections:

14.03.010 Policy statement.

[14.03.020 Water conservation plan]

14.03.020 Outdoor water use.

[14.03.025 Water source development agreements with private entities.]

14.03.030 Water waste.

14.03.040 Irrigation by hotels.

14.03.050 Planting.

14.03.060 Leak detection program.

14.03.070 Water reuse.

14.03.080 Education and incentive.

14.03.090 Enforcement.

**14.03.010 Policy statement.** [The County's policy is to promote water conservation.] This chapter shall be known as the "water conservation plan". The council finds and declares:

A. Water is a valuable natural resource that should always be used wisely and be managed as a public trust.

B. Unrestricted water use for nonessential needs may endanger the adequacy of the County's water supply for essential needs.

C. A water conservation plan is essential to preserve water resources and to reduce the risk and severity of water shortages. [Such a plan will significantly reduce the long-term and short-term consumption of water, thereby preserving available water for the future requirements of the County, while minimizing the hardship caused to the general public. The enactment of a water conservation plan is further necessary in order to preserve and protect the public health, safety, and welfare.

**14.03.020 Water conservation plan.** A. No later than January 5, 2007, the board of water supply shall transmit to the council proposed elements of a water conservation plan. The proposed elements shall include, but not be limited to, water use regulations relating to outdoor watering, leak detection and prevention, and water reuse.

B. Within one hundred eighty days of the board of water supply's transmittal required by subsection A of this section, the council shall enact a water conservation plan by ordinance.

C. Within one hundred eighty days of the ordinance required by subsection B of this section and at least twice per year thereafter, the board of water supply shall transmit to the council a report on the effectiveness of the water conservation plan and, with the report, may propose amendments to the water conservation plan.

D. Within one hundred eighty days of any amendment to the water conservation plan, the board of water supply shall transmit to the council a report on the effectiveness of the water conservation plan, as amended, and may propose further amendments to the plan.

**14.03.025 Water source development agreements with private entities.** The council shall approve by resolution any water source development agreement with private entities. For purposes of this section, a "water source development agreement with a private entity" means an agreement, executed by the County and any person, to develop water resources by constructing a structure to capture, convey, store, and treat currently unutilized, nonpotable surface waters; constructing facilities for currently unutilized ground water and its treatment, including pumps, motor control stations, pump control, or disinfection contact time tanks; constructing desalination facilities; or using any other technique that provides or recaptures water that is acceptable to the State of Hawaii department of health, together with any easements required for the improvements. This section shall not apply to County contracts that are subject to

the Hawaii public procurement code, as set forth in chapter 103D, Hawaii Revised Statutes.]

**14.03.020 Outdoor water use.** A. Watering of lawns shall be prohibited between the hours of 9:00 a.m. and 6:00 p.m. These restrictions shall apply to all sources of potable and non-potable water, including private water sources. These restrictions shall not apply to:

1. Watering using hand-held hoses equipped with automatic shut-off nozzles;
2. Irrigation using one hundred percent recycled water;
3. Irrigation by agricultural consumers as defined in section 14.01.040 of this title;
4. Watering of personal food gardens; and
5. Recently established lawns or landscaping, which, after written approval by the director, may be watered as needed for up to one month after installation.

B. All new commercial development shall install irrigation systems that use water conservation design principals that maximize efficiency of the irrigation system and promote the conservation of water.

C. Within five years of the effective date of this ordinance, all existing commercial development shall have installed irrigation systems using water conservation design principals that maximize efficiency of the irrigation system, or shall be using other means of water conservation to reduce their current water usage by at least ten percent.

**14.03.030 Water waste.** A. It shall be unlawful for any person to use water in a manner that causes water waste. For the purposes of this chapter, water waste shall be defined as the nonbeneficial use of water, including the following:

1. Landscape water applied in quantities that overflow or spray onto adjacent property or the public right-of-way;
2. Washing of vehicles, equipment, or hard surfaces such as parking lots, and driveways in sufficient quantity to flow onto adjacent property or the public right-of-way; or
3. Water used in quantities that cause ponding on impervious surfaces.

B. These restrictions do not apply to:

1. Flow resulting from temporary water supply system or irrigation ditch failures or malfunctions; provided, that these failures or malfunctions shall be repaired within forty-eight hours of notification or the system shall be shut off until repair can be completed;
2. Flow resulting from routine inspection, operation, well testing, sampling, monitoring, or maintenance of a utility water supply system or as part of a hydrologic study. This water shall be captured and reused whenever possible;

3. Flow resulting from firefighting or routine inspection of fire hydrants or from fire-training activities;

4. Water used in the course of installation or maintenance of traffic flow control devices;

5. Water used for construction or maintenance activities, where the application of water is the appropriate methodology; or

6. Water applied to abate spills of flammable or otherwise hazardous materials, or to prevent or abate health, safety, or accident hazards where the application of water is the appropriate methodology, or in the absence of alternate preventative methods.

C. All manual car and boat washing shall use hand-held hoses equipped with automatic shut-off nozzles.

**14.03.040 Irrigation by hotels.** A. Hotels and other large vacation establishments shall be required to submit an irrigation plan to the department within one year from the effective date of this ordinance.

1. The irrigation plan shall include:

a. Current irrigation schedules;

b. All irrigation devices and equipment currently being utilized.

c. A five-year plan to install irrigation systems that use water conservation design principals to maximize efficiency of the irrigation system, if applicable.

B. Within five years of the effective date of this ordinance, hotels and large vacation establishments shall install irrigation systems that use water conservation design principals to maximize efficiency of the irrigation system.

C. Hotels and large vacation establishments may ask for an extension of up to sixty days to adjust irrigation schedules that will comply with section 14.03.020 of this chapter.

**14.03.050 Planting.** A. Water efficient landscape planting plans, such as xeriscaping, shall be encouraged, designed for and implemented on all new commercial development projects, building landscape design plans, parks plans, other outdoor landscape design plans, such as streets, parking lots, rights-of-ways, and other appropriate outdoor landscape plans.

B. Developers shall provide information to buyers and long-term leaseholders regarding the design, installation, and maintenance of water efficient landscapes.

**14.03.060 Leak detection and prevention.** A. The department shall monitor consumers' consumption and issue high-consumption notices to customers when warranted.

B. The department shall continue its leak detection program, which includes prioritizing the replacement of old and leak-prone County water mains.

C. The department shall make available tablets to detect toilet-tank leaks upon a consumer's request.

D. The department shall encourage members of the public to report water leaks.

14.03.070 Water reuse. A. New commercial car wash facilities shall reuse and recirculate a minimum of seventy-five percent of wash water and rinse water.

B. Non-potable or reclaimed water shall be used in new single-pass or once-through cooling systems; for dust control at construction sites; and to irrigate parks.

C. All new ornamental water features in the common areas of landscape projects, such as ponds, lakes, and fountains shall be supplied, operated, and maintained with reclaimed or non-potable water.

D. All new development shall install reclaimed water irrigation systems, pursuant to the provisions of Chapter 20.30 where there is available reclaimed water service.

14.03.080 Education. A. The department shall continue to update its program of educating water consumers in long-term water conservation practices and awareness. The department shall include a link to the department's website water conservation link on its bi-monthly water bill.

14.03.090 Enforcement. A. Violations of this chapter shall be enforced pursuant to section 19.53.030 of this code."

SECTION 3. Article 1, Title 14, Maui County Code, is amended by adding a new Chapter to be appropriately designated and to read as follows:

**“CHAPTER 14.16  
WATER SOURCE DEVELOPMENT AGREEMENTS WITH PRIVATE  
ENTITIES**

The council shall approve by resolution any water source development agreement with private entities. For purposes of this chapter, a "water source development agreement with a private entity" means an agreement, executed by the County and any person, to develop water resources by constructing a structure to capture, convey, store, and treat currently unutilized, non-potable surface waters; constructing facilities for currently unutilized ground water and its treatment, including pumps, motor control stations, pump control, or disinfection contact time tanks; constructing desalination facilities; or using any other technique that provides or recaptures water that is acceptable to the State of Hawaii department of health, together with any easements required for the improvements. This chapter shall not apply to County contracts that are subject to the Hawaii public procurement code, as set forth in chapter 103D, Hawaii Revised Statutes.”

SECTION 4. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 5. This ordinance shall take effect on December 31, 2011.

APPROVED AS TO FORM AND LEGALITY:

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Department of the Corporation Counsel  
County of Maui

paf:kcw:10-211a